



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:**

van der Kuyl et al.

**Serial No.:** 10/055,728

**Filed:** January 23, 2002

**For:** MEANS AND METHODS FOR  
TREATMENT EVALUATION

**Confirmation No.:** 6214

**Examiner:** S. Bausch

**Group Art Unit:** 1645

**Attorney Docket No.:** 2183-5244US

**NOTICE OF EXPRESS MAILING**

Express Mail Mailing Label Number: EV326921092US

Date of Deposit with USPS: August 19, 2004

Person making Deposit: Christopher Haughton

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Communication of June 21, 2004, applicants elect, without traverse, the claims of Group I (*i.e.*, claims 1-24, 29-34, and 38) directed to a method of determining effective treatment of target cells using a marker gene, classified in class 435, subclass 6.

The Communication of June 21, 2004, also requested that the applicants also “elect one specific SEQ ID NO. as it applies to all the groups.” (Communication, page 4). Applicants provisionally select SEQ ID NO: 81, with traverse, for examination.

This election is made with traverse since “the Commissioner has decided *sua sponte* to partially waive the requirements of 37 C.F.R. 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application.” (M.P.E.P. § 803.04; *see also*

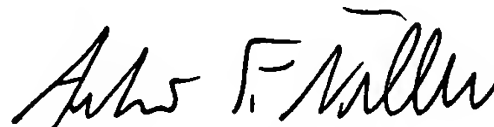
M.P.E.P. § 2434, allowing “in most cases, up to 10 independent and distinct nucleotide sequences” to be examined in a single application).

Thus, applicants request examination of, at the very least, SEQ ID NO: 6 (TIE 1 sequence), SEQ ID NO: 18 (Keratin 14 sequence), SEQ ID NO: 30 (Sialoadhesin or Siglec 1 sequence), SEQ ID NO: 66 (TAG07 Keratin 14), SEQ ID NO: 72 (TAG015, TIE 1) and SEQ ID NO: 81 (TAG032, Sialoadhesin or Siglec 1). These sequences are related in that they are involved in angiogenesis and serve as an indicator for angiogenesis. (See, Specification as filed, page 13, lines 20-28). Further, since the six sequences are less than the ten sequences permitted by the Office, it should not be an undue burden on the Office to examine these six sequences.

### CONCLUSION

In view of the foregoing remarks, the applicants respectfully submit that the elected claims define patentable subject matter and substantive examination is requested. Should the Office determine that additional issues remain which might be resolved by a telephone conference, the Office is invited to contact the applicants’ attorney at the address or telephone number given herein.

Respectfully submitted,



Andrew F. Nilles  
Registration No. 47,825  
Attorney for Applicants  
TRASKBRITT, P.C.  
P.O. Box 2550  
Salt Lake City, Utah 84110-2550  
Telephone: 801-532-1922  
FAX: 801-531-9168

Date: August 19, 2004